

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 73**

Introduced by Cunningham, 40; Byars, 30; Jensen, 20; Price, 26

Read first time January 9, 2003

Committee: Health and Human Services

A BILL

- 1 FOR AN ACT relating to public health and welfare; to adopt the
- 2 Outpatient Surgical Procedures Data Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1.     Sections 1 to 9 of this act shall be known  
2 and may be cited as the Outpatient Surgical Procedures Data Act.

3           Sec. 2.     The purposes of the Outpatient Surgical  
4 Procedures Data Act are to:

5           (1) Establish an information data base for patients,  
6 health professionals, ambulatory surgical centers, hospitals, the  
7 health and human services system, and other interested parties;

8           (2) Improve the appropriate and efficient usage of  
9 outpatient surgical procedures; and

10          (3) Designate the department as the public health  
11 authority for the acquisition and dissemination of data from  
12 appropriate sources to carry out the purposes of the act.

13          Sec. 3.     For purposes of the Outpatient Surgical  
14 Procedures Data Act:

15          (1) Charity care means the value of outpatient surgical  
16 procedures performed with no expectation of payment, excluding  
17 contractual allowances and bad debt as defined by the American  
18 Institute of Certified Public Accountants;

19          (2) Department means the Department of Health and Human  
20 Services Regulation and Licensure;

21          (3) Medicaid means the medical assistance program  
22 established under sections 68-1018 to 68-1025;

23          (4) Medicare means the Health Insurance for the Aged Act,  
24 Title XVIII of the Social Security Amendments of 1965, as amended,  
25 42 U.S.C. 1395 et seq.;

26          (5) Other public source means any program funded through  
27 government funds, except medicare and medicaid;

28          (6) Outpatient surgical procedures means surgical

1 procedures provided to patients who do not require inpatient  
2 hospitalization;

3 (7) Patient served means a patient with one or more  
4 outpatient surgical procedures performed during a visit;

5 (8) Primary payor means the payor that is expected to be  
6 responsible for the largest percentage of the patient's current  
7 bill and includes medicaid, medicare, private payor, self-pay, and  
8 other public or private sources;

9 (9) Private payor means an insurance or indemnity health  
10 care plan, employer self-funded plan, or other organizations'  
11 self-funded plans;

12 (10) Self-pay means payment directly by the patient,  
13 guarantor, relative, or friend who does not have a private payor,  
14 other public source, medicaid, or medicare coverage; and

15 (11) Surgical procedure means a procedure outlined in the  
16 surgery section of a medical data code set.

17 Sec. 4. Any facility licensed as an ambulatory surgical  
18 center or as a hospital under the Health Care Facility Licensure  
19 Act and providing outpatient surgical procedures shall submit to  
20 the department a verified report in a form specified in  
21 regulations, no later than April 1 of each year, containing at  
22 least the following information for the previous calendar year:

23 (1) The name of the reporting facility;

24 (2) The total number of patients served;

25 (3) The number of patients reported by the patient's  
26 county and state of residence;

27 (4) A listing of the twenty most frequently provided  
28 outpatient surgical procedures performed by the hospital or

1 ambulatory surgical center, including the number of persons served  
2 for each listed procedure. Any hospital or ambulatory surgical  
3 center which provides fewer than twenty outpatient surgical  
4 procedures in the reporting period shall provide a listing of the  
5 most commonly provided outpatient surgical services, including the  
6 number of persons served for each listed procedure and shall  
7 disclose the circumstances for such limited data;

8 (5) The number of patients served reported by primary  
9 payor;

10 (6) The number of patients served and the total or  
11 aggregate value of outpatient surgical procedures provided as  
12 charity care; and

13 (7) Any additional health statistical and health status  
14 information concerning outpatient surgical procedures that does not  
15 identify the patient as may be voluntarily reported by the  
16 facility.

17 If the data required under this section is already  
18 reported in electronic form to another organization or government  
19 agency, such data shall be obtained from such organization or  
20 agency and no duplicate report of such data shall be required from  
21 the reporting hospital or ambulatory surgical center.

22 Sec. 5. In order to provide timely information, the  
23 department may require the data to be provided electronically in  
24 accordance with physical specifications, format, and record layout  
25 prescribed in rules and regulations.

26 Sec. 6. The department shall:

27 (1) Compile and publish a statistical report annually  
28 containing information from the outpatient surgical procedures data

1 base in order to provide accessible information useful to  
2 physicians, medical personnel, researchers, communities, and the  
3 public;

4 (2) Comply with all necessary requirements in order to  
5 obtain funds or grants;

6 (3) Coordinate with registries and other data bases to  
7 the extent feasible;

8 (4) Consult with medical professionals and health  
9 information management professionals in formulating plans and  
10 policies relating to the outpatient surgical procedures data base;

11 (5) Adopt and promulgate rules and regulations to  
12 implement the Outpatient Surgical Procedures Data Act; and

13 (6) When requested, use the negotiated rule making  
14 process to implement the act.

15 Sec. 7. The department shall, within ninety days after  
16 the beginning of each fiscal year, estimate the total amount of the  
17 department's costs under the Outpatient Surgical Procedures Data  
18 Act for that fiscal year for data collection, data base development  
19 and maintenance, generation of data files and standard reports, and  
20 orientation and training. On or before November 15 of each year,  
21 the department shall assess against each hospital and ambulatory  
22 surgical center required to report data a portion of such estimated  
23 total costs for that fiscal year, which estimated total cost has  
24 been reduced by the estimated total to be received from legislative  
25 appropriations and other sources for purposes of administration of  
26 the act during the fiscal year and the unencumbered balance of the  
27 amount received for purposes of administration of the act from the  
28 prior fiscal year. Each hospital and ambulatory surgical center

1 shall pay the assessment to the department within sixty days after  
2 receipt of the assessment.

3 The department shall collect a fee from any person  
4 requesting a special report, which fee shall not exceed the  
5 reasonable cost of preparing the report, including, but not limited  
6 to, the cost of data retrieval and data processing.

7 All money collected under the act shall be remitted to  
8 the State Treasurer for credit to the Outpatient Surgical  
9 Procedures Data Cash Fund.

10 Sec. 8. If any facility licensed as an ambulatory  
11 surgical center or a hospital fails to comply with the reporting  
12 requirements of section 4 of this act or pay its assessment under  
13 section 7 of this act, the department may impose a late fee of up  
14 to one hundred dollars per day for each day the filing of any  
15 report or payment of the assessment is delayed. No late fee shall  
16 be imposed if an extension is granted in accordance with the rules  
17 and regulations of the department. Late fees shall be assessed and  
18 may be recovered in a civil action brought in the name of the  
19 people of the State of Nebraska by the department. Assessment of a  
20 late fee may, at the request of the ambulatory surgical center or  
21 hospital, be reduced or waived for good cause. The department may  
22 inspect and audit the records of any ambulatory surgical center or  
23 hospital during the regular business hours of the center or  
24 hospital for the limited purpose of verification of data required  
25 to be reported under the Outpatient Surgical Procedures Data Act.

26 Sec. 9. The Outpatient Surgical Procedures Data Cash  
27 Fund is created. The fund shall consist of money credited to it  
28 pursuant to section 7 of this act and any money appropriated by the

1 Legislature to carry out the Outpatient Surgical Procedures Data  
2 Act. Any money in the fund available for investment shall by  
3 invested by the state investment officer pursuant to the Nebraska  
4 Capital Expansion Act and the Nebraska State Funds Investment Act.